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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,162	12/11/2003	Hawley K. Rising III	80398.P534C	1651

7590 03/09/2006

Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER

PARDO, THUY N

ART UNIT PAPER NUMBER

2165

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,162

Applicant(s)

RISING, HAWLEY K.

Examiner

Thuy Pardo

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23,25-40,42-51,53-68,70-79,81-96,98-107,109-124 and 126-132 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-23,25-40,42-51,53-68,70-79,81-96,98-107,109-124 and 126-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

The indicated allowability of claims 21-23, 25-40, 42-51, 53-68, 70-79, 81-96, 98-107, 109-124, 126-132 is withdrawn in view of the newly discovered reference(s) to Agrawal et al. US patent No. 6,233,575. Rejections based on the newly cited references follow.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 21-23, 25-40, 42-51, 53-68, 70-79, 81-96, 98-107, 109-124, 126-132 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For instance, the claimed invention reciting only a compilation of software per se does not produce a useful and tangible result and does not appear to be a process, machine, manufacture or composition of matter in a physical transformation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 21-23, 25-40, 42-51, 53-68, 70-79, 81-96, 98-107, 109-124, 126-132 are rejected under 35 U.S.C. 103(a) as being unpatentable Becker US Patent No. 6,301,579, in view of Agrawal et al. (Hereinafter "Agrawal") US Patent No. 6,233,575.

As to claim 21, Becker teaches the invention substantially as claimed, comprising:
creating a root node [1102 of fig. 11A] comprising coordinates in the MDS space for a first subset of the set of points [col. 3, lines 50-60] the root node further comprising boundary information in the MDS space for local MDS spaces defined by further subsets of the set of points [col. 7, lines 38 to col. 8, lines 29]; and
creating a plurality of leaf nodes [1114, 1116, 1118 of fig. 11A], each leaf node [B of fig. 12] comprising coordinates in a local MDS space for the points in one of the further subsets [Cs of fig. 12].

However, Becker does not explicitly teach the MDS space defined by running MDS on the first subset of points. Agrawal teaches the MDS space defined by running MDS on the first subset of points ["Business and Economy", "Recreation", and "Science" have been defined as different topics in the first subsets of points, fig. 2; col. 9, lines 50 to col. 10, lines 22].

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to add this feature of Agrawal to the system of Becker as an essential means to provide efficient reorganization of a database into a topic hierarchy for user's information need.

As to claim 40, Becker and Agrawal teach the invention substantially as claimed, comprising identifying a node for a new point corresponding to a new object based on attribute proximities between the new object and existing objects [col. 17, lines 59 to col. 18, lines 62; col. 20, lines 48-64]. Agrawal further teaches adding the new point into the subset associated with the identified node and redefining the local MDS space for the identified node [addition of documents to a given topics and the text models built at each node using few descriptive keywords as the signatures, col. 5, lines 20-25; col. 11, lines 64 to col. 12, lines 10; col. 22, lines 17 to col. 23, lines 9].

As to claims 22-23, 25-39, 42-51, 53-68, 70-79, 81-96, 98-107, 109-124, 126-132, all limitations of these claims have been addressed in the analysis above and in the previous actions, and these claims are rejected on that basis.

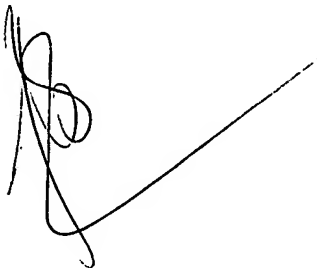
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo whose telephone number is 571-272-4082. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 03, 2006

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping diagonal stroke extending towards the right.

**THUY N. PARDO
PRIMARY EXAMINER**